

Application Number 10/593,750  
Amendment dated December 28, 2009  
Response to Office action of June 25, 2009

### **Remarks/Arguments**

#### **Documents (Office Action Item 2)**

Examiner states that drawings were submitted by the Applicant on June 12, 2008. Applicant has not submitted any drawing amendments in relation to this application. From PAIR, it seems that the documents logged by the USPTO on June 12, 2008 are derived from the PCT application, and are presumably obtained from WIPO, and not the Applicant.

#### **Drawings (Office Action Item 4)**

Applicant not having submitted drawings on June 12, 2008, corrected drawing sheets have not been submitted.

#### **Specification (Office Action Item 5 and 6)**

Applicant has provided a new application, which draws from the language of the elected claims.

#### **Claims Rejection, 35 USC 112 (Office Action Item 7 and 8)**

Applicant has amended claims 72-75, 78, 80, 82, 83, 85, 87 and 88 to meet the requirement of 35 USC 112, second paragraph.

#### **Claims Rejection, 35 USC 102 (Office Action Item 9 and 10)**

Examiner has rejected claims 72-76 and 78-89 as being anticipated by U.S. Patent No. 8,809,429 to Frank.

A key feature of the present invention, and the subject of independent claims 72 and 85 is that the engine is unthrottled. Examiner should note that the engine in Frank's disclosure (Fig. 4, element 10) has a throttle control (Fig. 4, element 36) and the system controller (Fig. 4, element 30) sends a throttle control signal to the engine (see column 4 and lines 59-62). Frank's disclosure does not therefore have an unthrottled engine and is not relevant novelty-destroying prior art.

A key feature of Frank's disclosure is that the prior art system of engine, clutch, CVT (Fig. 1) could never achieve the "theoretical efficiency of the engine, performance and driveability could never be obtained automatically" (column 1, lines 35, 36), and he goes on to describe how

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deficiencies in the prior art may be overcome. Specifically: "by inserting an electric motor or motor/generator, a battery, and associated controls between the engine and the continuously variable or automatic transmission." (column 2, lines 15-19).

According to the present invention as claimed in independent claims 72 and 85, an method and apparatus for controlling the power output of an unthrottled engine has a variable gear ratio transmission connected between a mechanical load and the unthrottled engine and a controller controlling a torque load on the engine, according to a changeable required power output. It does not have a motor/generator between the engine and the transmission; it does not have a battery for providing power to the motor/generator; it does not have a clutch between the engine and the motor/generator; it does not have a motor/generator controller interconnecting the motor/generator and the battery.

Frank does not disclose the present invention because he uses additional components not needed in the present invention.

Applicant respectfully requests that Examiner withdraw his rejection of claims 72-76 and 78-89 as being anticipated by U.S. Patent No. 8,809,429 to Frank.

Applicant respectfully submits that application is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that discussing the application with the Applicant over the telephone might advance prosecution, Applicant would welcome the opportunity to do so.

Respectfully submitted,

/J. Edelson/

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